

Before the Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
Truth-in-Billing and Billing Format)	
)	CC Docket No. 98-
		170
National Association of State Utility)	
Consumer		
Advocates' Petition for Declaratory)	CG Docket No. 04-
Ruling		208
Regarding Truth-in-Billing)	
)	

Reply Comments of the Minnesota Department of Commerce

Date: July 22, 2005

_____/s/_____
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The Minnesota Department of Commerce (MDOC) respectfully submits these reply comments in response to the Commission's Second Report and Order, Declaratory Ruling, and Second Further Notice of Proposed Rulemaking in CC Docket No. 98-170, Released March 18, 2005 ("TIB Second Report and Order"). In its TIB Second Report and Order, the Commission takes the important step of recognizing that for a competitive market to work properly, consumers need clear information concerning the true costs of their chosen service.

As of the date of the MDOC's comments, the Commission has received 36,122 sets of comments in Docket No. CG 04-208. The vast majority of these comments are from consumers concerned that the FCC may preempt the traditional role of states as the protector of consumers and the repository of consumer complaints. These comments take the position that because consumer protection has traditionally been in the hands of the states, states have both the experience to handle these issues and the mechanisms in place to resolve them.

The MDOC agrees with other commenters, including many carriers, that support the Commission's tentative findings that its TIB rules must be more specific to be meaningful. Therefore, the MDOC's reply comments will only focus on the FCC's request for comments on whether it should preempt states' ability to impose their own truth-in-billing requirements.

Most carriers that favor preemption make no mention of the impact of such a decision. Preemption is not an action that should be taken on a whim. Should the Commission preempt states' ability to both impose their own TIB requirements and enforce the Commission's rules, it should anticipate that many consumer complaints formerly handled by state agencies will now be referred to the Commission. Alternatively, should the Commission preempt states from imposing their own requirements but make it clear that states may enforce the Commission's rules, states can continue to take and investigate these complaints.

The Commission should not accept the claims of carriers that states could continue to accept and investigate complaints, except those that indicate a violation, even if completely preempted by the Commission.¹ This is an impractical and unrealistic proposal that would only create additional customer confusion. Consumers already experience a level of confusion on how telecommunications carriers are regulated and where to file complaints; they would only be further confused if they were to contact a state agency, only to be told that the agency can only handle the complaint if there was *not* a violation. Further, there is no reason why a carrier would respond to an inquiry by a state agency in response to a truth-in-billing complaint if states were precluded from regulating this issue.

Issues such as the handling of customer complaints are one of several reasons why the Commission should carefully examine the impact of any decision to preempt states, and more importantly why the Commission should be clear on what states' roles will be as the result of its decisions in this docket. If the Commission intends to entirely preempt states in this field of regulation, it should be prepared to take over the consumer protection functions that are currently being performed by states.

If, however, the Commission determines that states should continue to play a role, such as in the enforcement of the Commission's new truth-in-billing rules, then the Commission should clearly identify the line between what states can and cannot do. If the Commission allows states to enforce its truth-in-billing rules, it logically follows that states should also be able to decide upon a remedy to injured consumers, whether the relief is customer refunds, penalties, or changes to bills. States have already successfully enforced the Commission's slamming rules—without the differing interpretations of Commission rules as some carriers are concerned about. On the other hand, should

¹ See comments of Nextel, CG Docket No. 04-208.

the Commission determine that states may not enforce its rules, the Commission will have to undertake these responsibilities itself.

Whatever the Commission decides with respect to preemption, the decision should be one that has taken into account the impact of that decision, and the scope of that decision. The Commission should ensure that it has defined a clear boundary between the Commission's responsibilities and states' duties with respect to truth-in-billing. Neither states nor carriers wish to spend time and effort on determining to what extent states can (or cannot) enforce the Commission's rules, or whether states can require penalties or other relief.